

(3) Lands within designated wilderness areas, although BLM may authorize some uses under parts 2920 and 6300 of this chapter;

(4) Grants to holders other than Federal departments or agencies for transporting by pipeline and related facilities oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced from them (see part 2880 of this chapter);

(5) Public highways constructed under the authority of Revised Statute (R.S.) 2477 (43 U.S.C. 932, repealed October 21, 1976);

(6) Reservoirs, canals, and ditches constructed under the authority of R.S. 2339 and R.S. 2340 (43 U.S.C. 661, repealed in part, October 21, 1976); or

(7)(i) Any project or portion of a project that, prior to October 24, 1992, was licensed under, or granted an exemption from, part I of the Federal Power Act (FPA) (16 U.S.C. 791a *et seq.*) which:

(A) Is located on lands subject to a reservation under section 24 (16 U.S.C. 818) of the FPA;

(B) Did not receive a grant under Title V of the Federal Land Policy and Management Act (FLPMA) before October 24, 1992; and

(C) Includes continued operation of such project (license renewal) under section 15 (16 U.S.C. 808) of the FPA;

(ii) Paragraph (b)(7)(i) of this section does not apply to any additional public lands the project uses that are not subject to the reservation in paragraph (b)(7)(i)(A) of this section.

§ 2801.8 Severability.

If a court holds any provisions of the regulations in this part or their applicability to any person or circumstances invalid, the remainder of these rules and their applicability to other people or circumstances will not be affected.

§ 2801.9 When do I need a grant?

(a) You must have a grant under this part when you plan to use public lands for systems or facilities over, under, on, or through public lands. These include, but are not limited to:

(1) Reservoirs, canals, ditches, flumes, laterals, pipelines, tunnels, and

other systems which impound, store, transport, or distribute water;

(2) Pipelines and other systems for transporting or distributing liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined products from them, or for storage and terminal facilities used in connection with them;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transporting and distributing solid materials and facilities for storing such materials in connection with them;

(4) Systems for generating, transmitting, and distributing electricity;

(5) Systems for transmitting or receiving electronic signals and other means of communication;

(6) Transportation systems, such as roads, trails, highways, railroads, canals, tunnels, tramways, airways, and livestock driveways; and

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way.

(b) If you apply for a right-of-way grant for generating, transmitting, and distributing electricity, you must also comply with the applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, 16 U.S.C. 791a *et seq.*, and 18 CFR chapter I.

(c) See part 2880 of this chapter for information about authorizations BLM issues under the Mineral Leasing Act for transporting oil and gas resources.

§ 2801.10 How do I appeal a BLM decision issued under the regulations in this part?

(a) You may appeal a BLM decision issued under the regulations in this part in accordance with part 4 of this title.

(b) All BLM decisions under this part remain in effect pending appeal unless the Secretary of the Interior rules otherwise, or as noted in this part. You may petition for a stay of a BLM decision under this part with the Office of Hearings and Appeals, Department of the Interior. Unless otherwise noted in this part, BLM will take no action on your application while your appeal is pending.